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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/951,276 10/16/97 MCCARTHY

D 402-038-19

EXAMINER

MMC2/0411

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HAMMOND, B

ART UNIT	PAPER NUMBER
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2833

DATE MAILED:

04/11/00

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UNITED STATES DEPARTMENT OF COMMERCE
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 13

Application Number: 08/951,276

Filing Date: 10/16/97

Appellant(s): David McCarthy

Mark Stone

For Appellant

MAILED

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EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed January 19, 2000.

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(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct; the rejections under 35 USC 102 and 103 are withdrawn.

(7) Grouping of Claims

The rejection of claims 1-20 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

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(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 112. This rejection is set forth in prior Office action, Paper No. 8 as "Lack of written description".

(10) *Response to Arguments*

In response to appellants arguments on page 8, lines 11-29 that the "...each of the structural elements to which the Examiner has objected is an element which will clearly be understood by a person having ordinary skill in the relevant art...", and that these elements are "basic terms". This argument is directed toward a lack of enablement rejection which has not been made.

The Examiner replies: the appellant has not addressed the actual cause for the USC 112 rejection which is for a "lack of written description" of terms/elements such as "biasing means" and "means for coupling", as set forth in prior Office action, Paper No. 8.

Appellant has not pointed out whether a written description of these claims recitations are found in the disclosure.

For the above reasons, it is believed that the USC 112 rejections should be sustained.

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However, applicant's arguments in response to the USC 102 and 103 rejections are persuasive and, therefore, the USC 102 and 103 claim rejections are withdrawn.

Respectfully submitted,



Michael L. Gellner
Supervisory Patent Examiner
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Briggitte R. Hammond
April 7, 2000

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